

Advisory Opinion

IECDB AO 2011-02

February 24, 2011

Subject: transfer of funds to charitable organization

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(12) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on whether it is permissible for a candidate's committee to transfer campaign funds to a charitable organization where the candidate is employed by an affiliated organization. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapter 68A and 68B, Iowa Code section 8.7, and rule in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

A candidate has leftover campaign funds he wishes to transfer to a 501(c)(3) charitable organization. This candidate is employed by a 501(c)(4) organization that holds itself out as the "parent organization" (hereafter "parent organization") of the 501(c)(3) organization (hereafter "charitable organization"). The candidate receives no compensation from the charitable organization. The two organizations keep their finances separated and no funds, goods or services are transferred from the charitable organization to the parent organization. The organizations are closely related. They share six key issues on which they focus; they share office space; they share staff members although the staffers keep track of how they spend their time and their wages are paid proportionately by the organizations based on how their time is spent; and the two organizations have the same board members although separate board meetings are held for the parent organization and the charitable organization.

QUESTION:

Under these circumstances, may the candidate's committee transfer campaign funds to the charitable organization?

OPINION:

Iowa Code section 68A.303(1)(a) states a candidate's committee may "transfer campaign funds . . . to charitable organizations unless the candidate or the candidate's spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law,

stepsister, parent, parent-in-law, or stepparent is employed by the charitable organization and will receive a direct financial benefit from a contribution.”

Although the candidate is employed by the charitable organization’s parent organization, we are of the opinion the candidate’s committee may transfer campaign funds to the charitable organization. The organizations keep their finances separate and no funds, goods or services are transferred from the charitable organization to the parent organization. Thus, we believe such a transfer is permissible under section 68A.303(1)(a) because the candidate will not receive a “direct financial benefit” from the transfer to the charitable organization.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Patricia Harper, Vice Chair
Gerald Sullivan
John Walsh
Saima Zafar
Carole Tillotson

Submitted by: Megan Tooker, Board Legal Counsel